

MONTANA STATE AUDITOR'S OFFICE
INSURANCE DEPARTMENT
HELENA, MONTANA

IN THE MATTER OF:

THE PROPOSED DISCIPLINARY
TREATMENT OF ROBERTA KNAPP,

Respondent.

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CASE NO. 2005-18

CONSENT AGREEMENT

I.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, § 33-1-101, et seq., MCA, determines that there is probable cause to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. Respondent is a resident of the state of Montana and a licensed insurance producer.

2. Respondent's son, K. Jeffrey Knapp, was involved in a one-vehicle crash on or about July 11, 2004 that occurred on Interstate 15 near the Cedar Street exit in Helena, Lewis & Clark County, Montana. Highway Patrol Officer Marvin D. Reddick responded to the crash scene, where he noticed Mr. Knapp's 2001 Chevrolet pickup truck had struck the guardrail on the right-hand side of the highway and traveled down a steep embankment after it had been overcorrected. Officer Reddick's report identifies Mr. Knapp as the truck's occupant and states Mr. Knapp was intoxicated at the crash scene.

3. Officer Reddick interviewed Mr. Knapp's mother, the Respondent, at the crash scene. Respondent told the officer that she had been driving Mr. Knapp's truck at the

time of the crash because Mr. Knapp had asked her to drive him since he had been consuming alcohol earlier in the evening and did not feel safe to drive. He stated Respondent had been driving his truck and was driving behind another vehicle on I-15 at the time of the crash when she noticed a deer begin to cross in front of the other vehicle. Respondent stated the other vehicle swerved to avoid the deer, that she also swerved and then overcorrected the truck, collided into the back of the other vehicle and then swerved into the guardrail. The vehicle continued over the guardrail and came to a rest against a chain link fence below. According to the Respondent and Mr. Knapp, Mr. Knapp was thrown from the truck and landed on the dirt and grass field outside of the truck, which caused the Respondent to suffer serious injuries. Respondent told Officer Reddick that she was not wearing her seatbelt at the time of the crash. The Respondent indicated the crash occurred in Lewis & Clark County

4. Following the crash, Mr. Knapp was transported to St. Peter's Hospital in Helena, MT for care relating to the numerous injuries he suffered in the crash. According to an informant, Mr. Knapp phoned her using his cell phone shortly following the crash and before law enforcement or emergency medical personnel arrived at the crash scene. The informant stated Mr. Knapp asked her to tell law enforcement personnel that she had been driving his truck at the time of the crash. The informant stated she refused to make such a statement. She further stated that she contacted Respondent and advised her that Mr. Knapp had been in a crash. The informant said Respondent arrived at her residence shortly thereafter and drove them both to the accident scene. Ms. Knapp later indicated the crash occurred in Lewis & Clark County.

5. Mr. Knapp subsequently submitted a claim to Unitrin Specialty Insurance Company (hereinafter referred to as "Unitrin") for payment of his medical and vehicle

damage expenses incurred as a result of the crash. Unitrin initiated an investigation into the cause of the crash.

6. According to Unitrin Investigator Ian Croxall, Mr. Knapp claimed he had been a passenger in his truck and that Respondent had been driving the vehicle at the time of the crash. Respondent also told Unitrin she had been driving Mr. Knapp's vehicle when it crashed. However, according to Mr. Croxall, physical evidence collected during his investigation of the crash indicates Mr. Knapp, not Respondent, had actually been driving the vehicle at the time of the crash.

7. On or about August 24, 2004, Mr. Croxall interviewed Respondent, who told him Mr. Knapp had called her late in the evening of July 10, 2004 and asked her to drive him because he felt he had been drinking beer and did not feel safe to drive. Respondent told Mr. Croxall that she went to the East Helena Street Dance, picked up Mr. Knapp, and proceeded to drive on Interstate 15 at approximately 1:00 A.M. to Perkins restaurant to drop him off with some friends. She stated that, while driving to Perkins restaurant, a smaller vehicle passed her on her left, drove back in front of her, began to swerve and began to brake sharply. She stated she then ran into the rear of the smaller vehicle, which caused her to lose control of the truck and drive over the guardrail, landing on embankment where Mr. Knapp's pickup stopped. Respondent also stated that Mr. Knapp was ejected from the truck during the crash, that she heard Mr. Knapp call for her after the truck stopped, that she located him outside the truck and assisted him back into the vehicle.

8. Respondent told Mr. Croxall that she did not see the deer that she stated ran in front of the car driving in front of her. However, Respondent previously told Unitrin investigator James Smiley that she did, in fact, see the deer fly over the top of the other car

and that it looked as though the deer was going to go through her windshield. When advised of her inconsistent statements, Respondent simply stated, "I never saw the deer."

9. Mr. Croxall also interviewed Mr. Knapp about the crash. Mr. Knapp advised Mr. Croxall that he drank two beers that evening and later asked Respondent to drive him home because he felt it was not safe for him to drive. Mr. Knapp stated he was riding in the truck's passenger seat at the time of the crash when another car passed the truck on the left, and cut into the right-hand lane. Mr. Knapp stated he thinks the truck ran into the back of the front vehicle. He also stated he saw the front vehicle hit a deer, which flew over the top of the front vehicle and that he thought the deer was going to strike his truck's windshield, even though it did not. Mr. Knapp stated he remembers waking up outside his truck and hearing Respondent calling his name.

10. Unitrin's hired an accident reconstructionist named Robert E. Stearns as a part of its investigation. Mr. Stearns conducted an investigation and issued a report on or about January 17, 2005 regarding the facts surrounding the crash. Mr. Stearns concluded that Mr. Knapp's injuries could only have occurred if he had been driving the truck at the time of the crash. Mr. Stearns also concluded Mr. Knapp could not have been ejected through the passenger door or window. He concluded that, if Mr. Knapp was ejected from his truck, it only could have occurred through the driver's side of the truck.

11. Mr. Stearns' report further notes that Respondent previously told investigators she walked around the front of the pickup following the collision. His report concludes this also is impossible since the front of the truck came to rest against a chain link fence after the crash. His report further concludes the damage to Mr. Knapp's truck indicates the crash could not have occurred as reported by Mr. Knapp and Respondent, and that no paint transfer

evidence exists to support the contention that the truck struck the vehicle driving in front of it. The report states Mr. Knapp's medical reports further indicate he was never ejected during the crash due to a complete lack of ground contamination with Mr. Knapp's clothing and a lack of lacerations and abrasions typically seen following forceful ejections from vehicles.

12. Unitrin estimates the damage to Mr. Knapp's vehicle to be approximately \$6,632.52.

13. This Agreement is to resolve a contested matter between the parties, to resolve issues without hearing or trial. In entering into this agreement, Respondent does not admit to any liability or violation of law, based upon the facts contained in this Agreement.

CONCLUSIONS

Therefore, if such conduct is true, Respondent violated INSURANCE FRAUD/THEFT, a FELONY, in violation of Sections 33-1-1202(1) and 45-6-301(6)(a), MCA; PROVIDING FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES, a MISDEMEANOR, in violation of Section 45-7-205(1)(a), MCA and FAILURE TO PROVIDE IMMEDIATE NOTICE OF ACCIDENT, a MISDEMEANOR, in violation of Section 61-7-108, MCA.

Furthermore, if such conduct is true, is punishable by a fine not to exceed \$5,000.00 pursuant to § 33-1-317, MCA.

AGREEMENT

Respondent stipulates and consents to the following:

A. To comply with all provisions of the Montana Insurance Code;

B. To waive her right to a hearing on the above-mentioned allegations and, that by entering into this Consent Agreement, denies the substance of the allegations of the Commissioner which raise questions of whether her conduct constituted a violation of law. In entering this Agreement, Respondent does not admit to any liability or violation of law based upon the facts contained in this Agreement;

C. To have her producer's license be immediately placed on probationary status for a 12-month period beginning on the date of signing of this agreement;

D. To complete an additional five continuing education credits specifically addressing ethics in the insurance field by the end of the biennium which ends October 1, 2006. It is expressly understood and agreed upon by and between the parties that, while Respondent's insurance producer license is on probationary status, Respondent shall receive full due process rights regarding any future action regarding her insurance producer license;

D. Respondent shall immediately pay a fine of \$10,000.00 (ten-thousand dollars and zero cents) with all but \$1,000.00 (one-thousand dollars and zero cents) suspended;

E. To waive her right to any and all statutes of limitation, including, but not limited to her right to speedy trial in Cause No. CDC 2006-45 of the Montana First Judicial Court of Lewis & Clark County;

F. The Department, acting through the Lewis & Clark County Attorney's office, shall move the District Court to dismiss Cause No. CDC 2006-45 without prejudice immediately upon the signing of this Agreement. In the event Respondent violates any part of this Consent Agreement or Title 33 of the Montana Code Annotated, she shall pay the suspended portion of the fine listed above and the Department shall be free to pursue and/or refile the Respondent's pending criminal action, Cause No. CDC 2006-45 of the Montana First Judicial Court of Lewis & Clark County, provided,

however, that the Department shall move the District Court to dismiss Cause No. CDC 2006-45 with prejudice three years from the date of signing this Agreement in the event Respondent has successfully performed all acts pursuant to the terms of this Agreement;

G. Respondent admits that she has read the foregoing Consent Agreement; that she knows and fully understands its contents and effect; that she acknowledges that she has been advised of his right to be represented by legal counsel and if represented by legal counsel, that her legal representation was satisfactory; that she is fully aware of her right to a hearing in this matter, her right to present evidence and arguments to the Commissioner or the District Court and the right to appeal any adverse determination after hearing; that she further acknowledges that, in signing this Consent Agreement, she is not under the influence of alcohol or drugs (prescription or otherwise), that she does not suffer from any emotional disturbance or mental disease or defect that would render her not competent to sign this Consent Agreement; that no threats, promises, coercion, force or duress have been used or brought against her in order to compel her to sign this Consent Agreement. **The Respondent understands that, by signing this Consent Agreement, she waives those rights mentioned above in their entirety.**

H. The Respondent further understands and agrees that, in signing this Consent Agreement, the Department retains its right to pursue any legal remedy in this matter, civil or criminal in the event she violates any of the conditions contained herein. Pursuant to the stipulation and consent of Respondent, the Commissioner, under authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the terms and conditions of this Consent Agreement are fully met, he will not initiate any further civil, administrative or criminal action against Respondent regarding the allegations contained herein. In consideration for the Commissioner fully complying

with the terms of this Consent Agreement, Respondent fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

I. The Respondent states that she understands that this Consent Agreement is part of the Commissioner's file, which is a public record. As a public record it may not be sealed. Also, she understands that the Commissioner develops press releases based on Consent Agreements on a routine basis and sends them to the news organizations in the State of Montana;

J. This agreement is to resolve a contested matter between the parties and to resolve issues without hearing or trial. It is further understood that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied, unless contained herein.

DATED this 28th day of June, 2006.

Roberta Knapp
Roberta Knapp

Subscribed and sworn to before me this 28th day of June, 2006.

Kenneth F. Waterman
Notary Public for the State of Montana
Written name Kenneth F. Waterman
Residing at Helena, Montana
My commission expires August 28, 2008


(SEAL)

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JOHN MORRISON
State Auditor and Commissioner
of Insurance

By: 

John K. Kurtz
Legal Counsel